

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

TRACY MCNAIR

Plaintiff,

v.

**UNITED STATES OF AMERICA,
Defendant.**

Civil Action No. 2:21cv51

*In re: Tracy McNair v. Hampton Roads
Community Health Center and Dr. Markovic
Vladimir, Case No. GV20014031-00, Norfolk
General District Court*

NOTICE OF SUBSTITUTION

PLEASE TAKE NOTICE that, pursuant to 42 U.S.C. § 233(c), the United States of America is hereby substituted for defendants “Hampton Roads Community Health Center” and “Dr. Markovic Vladimir” [sic] with respect to Plaintiff’s medical malpractice tort claim herein. The grounds for this substitution are:

1. Plaintiff alleges, *inter alia*, that the Hampton Roads Community Health Center (“HRCHC”) and Dr. Vladimir Markovic¹ negligently provided health care to Plaintiff causing her injury.
2. The Department of Health and Human Services has deemed HRCHC’s corporate parent, Portsmouth Community Health Center, to be an employee of the Public Health Service by the Department of Health and Human Services. Dr. Markovic is an employee of Portsmouth Community Health Center, Inc., doing business as HRCHC. Accordingly, both HRCHC and Dr. Vladimir are deemed to be employees of the Public Health Service.

¹ The correct name of the defendant doctor is Dr. Vladimir Markovic, not Dr. Markovic Vladimir.

3. The exclusive remedy for persons with claims for damages for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful acts or omissions of members of the Public Health Service lies in a suit against the United States of America under the Federal Tort Claims Act. 42 U.S.C. § 233(a) and (g).

3. Upon certification by the Attorney General or his designee that a Public Health Service entity or employee was acting within the scope of his office or employment at the time of the incident out of which a state or common law medical tort claim arises, any civil action arising out of the incident shall be deemed an action against the United States, and the United States shall be substituted as sole defendant with respect to the claim. 42 U.S.C. § 233(c). The Attorney General has delegated certification authority to the United States Attorneys. 28 C.F.R. § 15.4.

4. The United States Attorney for the Eastern District of Virginia has certified that HRCHC and Dr. Markovic were acting within the scope of their employment as deemed employees of the Public Health Service at the time of the alleged medical negligence. *See* Certification of Scope of Employment, Exhibit 2 to the Notice of Removal. Accordingly, by operation of law the United States of America is the only proper defendant for claims by Plaintiff against these defendants, HRCHC and “Dr. Markovic Vladimir” (aka, Dr. Vladimir Markovic), and HRCHC, and any employees of HRCHC or its corporate parent, Portsmouth Community Health Center, including Dr. Markovic, must be dismissed as named defendants.

Respectfully submitted,

UNITED STATES OF AMERICA,
Defendant

RAJ PAREKH
Acting United States Attorney

By: /s/ Kent P. Porter
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served this 25th day of January, 2021,
by United States mail, first class postage paid, addressed to the following:

TRACY MCNAIR
3801 Chatham Circle, Unit 2
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Pro se Plaintiff

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